



INSTRUCTIONAL
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Archdiocese of New York

February 8, 2005

Marlene S. Dortch
Federal Communications Commission
Office of the Secretary
c/o Natek, Inc.
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

Re: WT Docket No. 03-66

Dear Ms. Dortch:

As the Commission's records reflect, Department of Education, Archdiocese of New York ("ADNY") is one of the agency's oldest Educational Broadband Service licensees. ADNY has been an active participant in earlier stages of this rulemaking, and is pleased to offer its views on one of the central issues presented in the Further Notice of Proposed Rulemaking.

That issue is the treatment of grandfathered EBS licensees operating on the E and F Groups. With respect to this issue, there is virtually unanimous support for the position urged by the Catholic Television Network and the National ITFS Association ("CTN/NIA"); namely, that the Commission should "split-the-football" in the case of overlapping EBS and Broadband Radio Service ("BRS") Geographic Service Areas ("GSAs") operating on these channel Groups. This position has been supported not just by educators such as ADNY, but also by commercial operators (including Red New York E Partnership, the commercial licensee on the E Group channels in New York City) and their trade association, Wireless Communications Association International, Inc. ("WCA"). This broad support is powerful evidence that the split the football approach is not only fair, but that it is also commercially viable.

The only party which has opposed this approach seems to be NY3G Partnership ("NY3G"). NY3G seeks to relegate a co-channel EBS licensee to secondary status vis-à-vis itself. There is no merit to this view. In seeking to carve out some special arrangement it does violence to one of the principal reasons for adopting an equitable, across-the-board solution applicable to all licensees; namely, to do justice for all in a manner which avoids the need for resolving the merits or demerits of this, that, or the

other individual dispute. It ignores the fact that educators have been entitled to protected service areas by Commission Rule (Section 74.903(d)) for years. It disregards the earlier determination made by the Commission in this docket to the effect that educational licensees are not to be evicted from their channels.

ADNY has had an opportunity to review the Reply Comments being filed by CTN/WCA, and fully supports the views expressed in those comments.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Michael Lavery". The signature is written in a cursive, flowing style with a long, sweeping underline.

Michael Lavery
Administrative Director